



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**EPA-R07-OAR-2014-0602; FRL-9918-74-Region-7]**

**Approval and Promulgation of Implementation Plans; State of Missouri, Controlling Emissions During Episodes of High Air Pollution Potential**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve a revision submitted by the State of Missouri and received by EPA on December 17, 2013, pertaining to Missouri's rule "Controlling Emissions During Episodes of High Air Pollution Potential." This rule specifies conditions that establish air pollution alerts and emergency alert levels, and associated procedures and emission reduction objectives statewide. This action revises the SIP by amending an existing table in the rule, clarifying requirements of the rule related to emission reduction plans and other rule provisions, and makes administrative and format changes all consistent with Federal regulations.

**DATES:** This direct final rule will be effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], without further notice, unless EPA receives adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R07-OAR-2014-0602, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.
2. Email: bhesania.amy@epa.gov
3. Mail or Hand Delivery: Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

*Instructions:* Direct your comments to Docket ID No. EPA-R07-OAR-2014-0602. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or email information that you consider to be CBI or otherwise protected.

The [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental

Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Amy Bhesania, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551-7147, or by email at bhesania.amy@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," or "our" refer to EPA. This section provides additional information by addressing the following:

- I. What is Being Addressed in this Document?
- II. Have the Requirements for Approval of a SIP Revision Been Met?
- III. What Action is EPA taking?

**I. What is Being Addressed in this Document?**

EPA is taking direct final action to approve a revision to the Missouri SIP received by EPA on December 17, 2013, pertaining to Missouri rule 10 CSR 10-6.130, "Controlling Emissions During Episodes of High Air Pollution Potential." This rule specifies conditions that establish air pollution alerts and emergency alert levels, and associated procedures and emission reduction objectives statewide. This action revises the

SIP by amending an existing table in the rule, clarifying requirements of the rule related to emission reduction plans and other rule provisions, and makes administrative and format changes all consistent with Federal regulations.

Specifically, in subsection (1)(A), the rule is being revised to clarify the applicability of the rule to all sources and premises through the entire state with air emissions that contribute to sulfur dioxide ( $\text{SO}_2$ ), carbon monoxide ( $\text{CO}$ ), ozone ( $\text{O}_3$ ), nitrogen dioxide ( $\text{NO}_2$ ) or Particulate Matter - 10 Micron ( $\text{PM}_{10}$ ) and 2.5 Micron ( $\text{PM}_{2.5}$ ). This clarification is consistent with federal regulations regarding prevention of air pollution emergency episodes found in 40 CFR part 51, subpart H.

In addition, specific terms in this rule that were previously defined in section (2) of this rule have now been removed and placed in Missouri rule 10 CSR 10-6.020, "Definitions and Common Reference Tables."

In section (3) of the rule, table A is being amended to remove the specific breakpoint values for each relevant pollutant but retains the Air Quality Index (AQI) range values and categories for each pollutant. Because the AQI breakpoint values are updated each time a National Ambient Air Quality Standard (NAAQS) is revised, removing these values from the table eliminates unnecessary updates to this table. The AQI breakpoint values are established when EPA takes final action to

revise a NAAQS and are codified in 50 CFR part 58, appendix G. Therefore there is no need for the rule to also contain these breakpoint values. This revision to the rule does not alter any provisions or applicability of the rule.

The conditions that are listed for alert level categories are being moved from a narrative outline format into a table format in subsection (3)(B), table B, to provide more clarity regarding the specific applicable conditions. The requirement for an air stagnation advisory to be in effect in order to trigger an alert has been removed from all alert level categories thus, the conditions that are required to establish an alert are more easily triggered.

The procedures established for addressing alert level conditions are being moved from a narrative outline into a table format in subsection (3)(C), table C, to provide clarity on applicable procedures. The alert level procedures associated with an orange alert which are currently listed in the rule have been removed. These orange alert procedures were inadvertently retained when the state revised their rule in 2002 to be consistent with revised Federal regulations by updating the formally called Pollution Standards Index (PSI) to the AQI standards and procedures as codified in 40 CFR part 58, appendix G. EPA took action to approve Missouri's SIP revision on March 18, 2003 (68 FR 12829). Establishing orange alert procedures are

not a Federal requirement. This action amends the SIP to correct this error. This action does not alter the stringency of the rule.

Additional clarity is being added to section (4) of the rule addressing reporting and recordkeeping requirements. The alert plan requirements that are outlined in section (3) of the rule are being moved to a table format, tables D, E, and F. These tables retain the same objectives as previously contained in the rule, only modified in format and moved to section (4) of the rule with the exception of one red alert procedure. The red alert procedure which previously outlined provisions for the director to request all entertainment functions and facilities be closed has been removed from the rule. This procedure is not a requirement of Federal regulations for red alert procedures, and therefore remains consistent with Federal requirements. This procedure remains applicable for maroon level procedures.

## **II. Have the Requirements for Approval of a SIP Revision Been Met?**

EPA is taking direct final action to approve Missouri's request to amend the SIP. These modifications will not adversely affect air quality and will not relax the SIP.

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. On June 17, 2013, Missouri published the proposed revisions to the rules

in the Missouri Register. After considering public comments, the Missouri Air Conservation Commission (MACC) adopted the rule actions on August 29, 2013. Public comments were printed in the Missouri Register along with a re-print of the rule on November 1, 2013. The effective date was December 30, 2013.

The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

### **III. What Action is EPA Taking?**

EPA is taking direct final action to approve this SIP revision. We are publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of this Federal Register, we are publishing a separate document that will serve as the proposed rule to approve this SIP revision if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the Federal Register informing the public that this direct final rule will not take effect. We will address all

public comments in any subsequent final rule based on the proposed rule.

### **Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- is not a "significant regulatory action" under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian

country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within

which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 21, 2014.

Becky Weber,  
Acting Regional Administrator,  
Region 7.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 52 as set forth below:

**Part 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA - Missouri

2. In § 52.1320 the table in paragraph (c) is amended by revising the entry for 10-6.130 as follows:

§ 52.1320 Identification of Plan.

\* \* \* \* \*

(c) \* \* \*

**EPA-Approved Missouri Regulations**

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *				
10-6.130	Controlling Emissions During Episodes of High Air Pollution Potential	12/30/2013	<u>[Insert Federal Register publication date],</u> <u>[Insert Federal Register citation]</u>	
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[FR Doc. 2014-26080 Filed 11/03/2014 at 8:45 am; Publication Date:  
11/04/2014]